

PUBLIC NOTICE

The Town Council of the Town of Amherst will hold a public hearing on October 12, 2011 at 7:00 PM in the Town Hall at 186 S. Main Street. The subject of the hearing is the proposed revision of **Sec. 11-110.1 Noise** of the Town Code. A full copy of the proposed ordinance can be viewed at www.amherstva.gov and in the Town Hall weekdays between 9:00 AM and 5:00 PM.

AN ORDINANCE TO AMEND 11-110.1 OF THE CODE OF THE TOWN OF AMHERST, THE AMENDED SECTION PERTAINING TO NOISE.

Be it Ordained by the Council of the Town of Amherst:

1. That Sec. §11-110.1 of the Town Code of the Town of Amherst is hereby amended to read as follows:

Sec. 11-110.1 Noise

(A) Declaration of findings and policy

~~The Town Council hereby finds and declares that a~~ At certain levels, noise can be detrimental to the health, welfare, safety, and quality of life of the inhabitants of the town, and it is in the public interest that noise should be restricted. It is, therefore, the policy of the town to reduce and eliminate where possible, excessive noise and related adverse conditions in the community and to prohibit unnecessary, excessive and annoying noises from all sources subject to its police power.

(B) Definitions

(1) Device means any mechanism which is intended to, or actually produces noise when operated or handled.

~~(2)~~ (2) Excessive noise means any sound which annoys or disturbs humans, or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in section 10-29 of this chapter.

~~(2)~~ (3) Emergency work means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from immediate exposure to danger, including work performed by public service companies when emergency inspection, repair of facilities, or restoration of services is required for the immediate health, safety or welfare of the community.

~~(3)~~ (4) Vehicle means any vehicle including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, and any type or drawn trailer, campers, motorboats and racing vehicles; and any motorcycle (including but not limited to motor scooters and minibikes) as defined in the Code of Virginia, Section 46.2-100.

~~(4)~~ (5) Noise means any sound which may cause or tend to cause an adverse psychological or physiological effect on human beings.

~~(5) Noise disturbance means any unnecessary sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or any unnecessary sound which reasonably may be perceived to injure or endanger the comfort, repose, health, peace or safety of any person.~~

- (6) Person means any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group agency, or any legal successor, representative, agent or agency thereof.
- (7) Public right-of-way means any street, avenue, boulevard, highway, alley or public space which is owned or controlled by any public government entity.
- (8) Residential area means any street or highway within the town where sixty percent or more of the improved property is occupied by dwellings not used for business purposes.
- (9) Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (10) Sound pressure means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.
- (11) Stationary noise source means any equipment or facility, fixed or moveable, that is capable of emitting a sound beyond the property boundary of the property on which it is used.
- (12) Zoning district classification refers to the Town of Amherst Zoning Ordinance.

~~(C) Nuisance noise. It shall be unlawful for any person to make, or cause to be made or continued, a noise disturbance within the town.~~ Specific prohibitions. The following acts are declared to be ~~noise disturbances~~ excessive noise in violation of this section, provided that the acts so specified shall not be deemed to be an exclusive enumeration of those acts which may constitute a ~~noise disturbance~~ excessive noise under paragraph (c) and provided that the acts so specified below may still constitute a noise disturbance under paragraph (c) independently of the hours of the day the acts take place.

- (1) Operating or permitting the use or operation of any radio, receiving device, musical instrument, television, phonograph, or any other similar device producing sound between the hours of 7:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building.
- (2) The operation of equipment or other devices making noise between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building.
- (3) Yelling, shouting, hooting and hollering, whistling or singing on public or private property in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building between the hours of 10:00 p.m. and 7:00 a.m.

~~(C)~~ (D) Quiet Zone.

- (1) It shall be unlawful for any person to create or cause to be created any noise in excess of that prescribed within any area designated as a "quiet zone" in conformance with the provisions of

subsection (2) below, provided that conspicuous signs are placed on adjacent or contiguous streets indicating the area is a designated quiet zone.

- (2) Whenever the protection of the public health, safety and welfare so require, after a duly advertised public hearing, the town council may designate any geographical area of the town as a "quiet zone." Such designation shall include a description of the subject area, the reason(s) for such designation and shall prescribe the level of noise which shall be permitted in such quiet zone.

~~(D)~~(E) Prohibited vehicle noise.

- (1) It shall be unlawful for any person while operating a motor vehicle within the town on public or private property to create in the operation thereof any prohibited noise. In operating such vehicle the following acts are considered a violation of this section, but shall not be deemed to be exclusive:

- a. The practice of unnecessarily retarding the spark to the motor of a vehicle and thereby causing ~~prohibited~~excessive noise from the motor; that is plainly audible at a distance of fifty (50) feet or more from its source.

- b. In starting a vehicle from a standing position, the practice of gaining speed in a manner which is unnecessarily rapid and thereby causing ~~prohibited~~excessive noise from the motor and the screeching of tires or either of such noises; or in such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source.

- c. The practice of coming to an unreasonably rapid stop with a vehicle and thereby causing ~~unnecessary~~excessive grinding of brakes and screeching of tires or either of such noises; or in such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source.

- d. The operating of vehicles off road, creating ~~unnecessary~~excessive noise plainly audible across a residential real property boundary ~~ies~~ in such a manner that causes a noise complaint to be filed by any nearby property owner or resident; or in such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source.

- e. Operating or permitting the use or operation of any radio receiving set or any other device producing sound in motor vehicles within the town in such a manner as to be plainly audible ~~twenty-five (25)~~ at a distance of fifty (50) feet or more ~~feet~~ from such motor vehicle.

- f. ~~The operation of a vehicle in which the noise produced by the exhaust system is louder than that produced by the standard factory exhaust system for that particular vehicle.~~ Operation of a motor vehicle or operation of a motorcycle within the town with a gutted muffler, muffler cutout, straight exhaust, or without an exhaust in good working order, as provided by Code of Virginia, 46.2-1047 and 46.2-1049.

~~(E)~~(F) Sound-amplifying equipment.

- (1) Except pursuant to a permit issued by the office of the town manager, the use in, on or attached to any motor vehicle operating on any highway or parking lot which is open to the

public within the town, of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever whereby sound is cast on any highway, street or parking lot which is open to the public to promote the sale of goods, wares, or merchandise or for the purpose of advertising auction sales, sporting events or other business or things advertised thereby is prohibited. The use of a loudspeaker on a motor vehicle for making auction sales on streets or highways or on any property then being sold shall not be construed as a violation of this paragraph when such use is limited strictly to the selling of such property.

- (2) Except pursuant to a permit issued by the office of the town manager, the use of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever whereby sound is cast on any highway, street or across property boundaries is prohibited. The use of a loudspeaker for making auction sales on the property being sold shall not be construed as a violation of this paragraph when such use is limited strictly to the selling of such property.
- (3) Any permit issued by the office of the town manager for the use of any sound amplifying equipment shall be subject to the following regulations:
 - a. The only sound permitted is music and human speech.
 - b. May only operate during the hours specified within the permit.
 - c. Human speech and music amplified shall not be lewd, indecent, slanderous or tend to incite riotous or other unlawful conduct.
 - d. Must operate within any restrictions as specified on the permit.
- (4) A fee of twenty five dollars (\$25.00) shall be imposed for each permit issued.

| ~~(F)~~(G) The following specific activities are exempt from the provisions of this section.

- (1) The use of intercoms or paging systems by businesses located in commercial areas shall not be construed as a violation of this paragraph provided that the sound systems are used for paging purposes only.
- (2) Sound amplifying equipment used at public parks or recreation fields are exempt from the provisions of this section.
- (3) Clock chimes, bells and music played for a call to worship between the hours of 8:00 a.m. and 9:00 p.m.
- (4) Motor vehicles or instruments used during duly authorized parades or wedding processions shall be exempt from the provisions of this section.
- (5) All motor vehicles or devices used for the purpose of sweeping, blowing or cleaning business parking lots between the hours of 6:00 a.m. and 12:00 midnight shall be exempt from the provisions of section (I) subsection (2)(c) only, provided such business is located in a properly zoned district.

(6) All motor vehicles or equipment owned or contracted by a government entity, including volunteer emergency services, or other public utility, or contractor thereof being operated on an emergency basis, or for the purposes of necessary repairs or maintenance of highways or other public utilities shall be exempt from the provisions of this section.

~~(G)~~(H) Penalties. The provisions of this article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00).

(I) Enforcement. The provisions of this section shall be enforceable by the police department.

~~(H)~~(J) Emergency exception. The provisions of this section shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, nor to the emission of sound in the performance of emergency work.

(Adopted December 10, 1997.)

2. That this Ordinance shall be effective on October 12, 2011.

This ordinance was adopted on October 12, 2011.

ATTEST:

Mayor

Clerk of the Council